

RESOLUTION NO. 75682

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE ISSUANCE BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY OF MULTIFAMILY HOUSING REVENUE BONDS AND REFUNDING BONDS FOR THE MCCREERY COURTYARDS APARTMENT PROJECT

WHEREAS, San Jose Pacific L.P., a California Limited Partnership (the "Developer"), has requested that the California Statewide Communities Development Authority ("CSCDA") adopt a plan of financing providing for the issuance of tax-exempt multifamily housing revenue bonds in an aggregate principal amount not to exceed \$25,000,000 (the "Bonds") in one or more series issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, and at no time to exceed \$25,000,000 in outstanding aggregate principal amount, to finance the construction and development of a 93-unit multifamily rental housing project located at 1884 Alum Rock Avenue, 71 McCreery Avenue, 73 McCreery Avenue and 75 McCreery Avenue, San José, California, generally known as McCreery Courtyards (the "Project"); and

WHEREAS, CSCDA is authorized pursuant to the provisions of California Government Code Section 6500 et seq. and the terms of an Amended and Restated Joint Exercise of Powers Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies throughout the State of California, including the City of San José (the "City"), to issue revenue bonds in accordance with Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code for the purpose of financing multifamily rental housing projects; and

WHEREAS, the Bonds or a portion thereof will be "private activity bonds" for purposes of the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, the issuance of the Bonds must be approved by the applicable elected representative of the governmental unit on behalf of which the Bonds are issued and the governmental unit having jurisdiction over the territorial limits in which the Project is located after a public hearing held following reasonable public notice pursuant to the public approval requirement of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Project is located within the territorial limits of City of San Jose (the "City") and the Council of the City (the "City Council") is the elected legislative body of the City; and

WHEREAS, CSCDA has requested that the governing body of the City approve the issuance of the Bonds and approve the Project in order to satisfy the public approval requirement of Section 147(f) of the Code, and the requirements of Section 9 of the Agreement; and

WHEREAS, the governing body of the City held a public hearing on December 14, 2010, providing a reasonable opportunity for persons to comment on the issuance of the Bonds and the Project; and

WHEREAS, there has been published, at least 14 days prior to December 14, 2010, in a newspaper of general circulation within the City, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice; and

WHEREAS, the CSCDA is also requesting that the City Council approve the issuance of any refunding bonds hereafter issued by the Authority for the purpose of refinancing the Bonds which financed the Project (the "Refunding Bonds"), but only in such cases where federal tax laws would not require additional consideration or approval by the City Council; and

WHEREAS, it is intended that this resolution shall constitute the approval of the issuance of the Bonds required by Section 147(f) of the Code and Section 9 of the Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

Section 1. The above recitals are true and correct.

Section 2. The City Council hereby approves the issuance of the Bonds by the Authority. The City Council hereby approves the issuance of Refunding Bonds by the Authority in such cases where federal tax laws would not require additional consideration or approval by the City Council. It is the purpose and intent of the City Council that this resolution constitute approval of the Bonds for the purposes of (a) Section 147(f) of the Code and (b) Section 9 of the Agreement.

Section 3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing approved hereby.

Section 4. This resolution shall take effect immediately upon its passage.

ADOPTED this 14th day of December, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, NGUYEN, PYLE; REED.

NOES: OLIVERIO.

ABSENT: LICCARDO.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk